

1984 WL 249886 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 15, 1984

*1 Wade H. Logan, III, Esquire
Charleston County Attorney
Post Office Box 1090
Charleston, South Carolina 29402

Dear Mr. Logan:

You have requested an opinion as to the effect of § 9-1-1600 on a retired employee. That section provides as follows:

Any teacher or employee especially skilled in scientific knowledge and attainment may be temporarily employed by any part of the government or any agency thereof in a consultative capacity on a per diem compensation without such temporary consultative employment in any way affecting, reducing or canceling his retirement benefits but such temporary consultative employment shall not exceed four months in any one year.

Assuming that the retired employee meets the other criteria of this section, you have asked specifically how the four-month period should be computed.

The obvious intention of the statute was to limit the extent to which a retired member might return to service so that the member cannot 'retire' while still effectively holding a job or drawing substantial compensation. The limitation which § 9-1-1600 imposes is that the temporary consultative employment there provided for shall not exceed four months in any one year. The overwhelming weight of authority indicates that when the term 'month' is used in a statute, it is to be given its common definition, that is, a calendar month. [Williamson v. Farroh, 1 Bailey 611 \(1830\)](#). See also, 27A Words and Phrases 'Month.' As applied to this situation, it would mean that the limitation would be computed by taking the number of work days in four calendar months and regarding that as the limitation. There is nothing in the statute which indicates that those working days must be rendered consecutively. To the contrary, the use of the terms 'per diem compensation' and 'consultative capacity' tend to imply that the work is to be performed on a sporadic, as-needed basis.

I am enclosing a prior opinion of this office by Vance Bettis dated November 22, 1983, which deals with similar questions, for whatever additional information it may provide.

Sincerely yours,

Kenneth P. Woodington
Senior Assistant Attorney General

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